

SEP 08 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JESUS VALDEZ BERMUDEZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-70733

Agency No. A38-994-221

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 26, 2008^{**}

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Jesus Valdez Bermudez, a native and citizen of the Philippines, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

lawful permanent resident cancellation of removal. We dismiss the petition for review.

The IJ determined that Bermudez's 2002 forgery conviction constituted an aggravated felony under 8 U.S.C. § 1101(a)(43)(R), thereby rendering him ineligible for cancellation of removal. *See* 8 U.S.C. § 1229b(a)(3). Before the BIA, however, Bermudez only contended that a separate 2001 burglary conviction was not an aggravated felony under 8 U.S.C. § 1101(a)(43)(G). We therefore lack jurisdiction to review Bermudez's contentions regarding his forgery conviction, as they were not exhausted before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (exhaustion is mandatory and jurisdictional).

We also lack jurisdiction to review Bermudez's claims regarding the merits of his cancellation application because he failed to raise them before the BIA. *See Barron*, 358 F.3d at 678.

PETITION FOR REVIEW DISMISSED.